D.B. CIVIL WRIT PETITION NO.2007/1995
Dr. Davendra Kumar Agrawal Vs. The State of Rajasthan & Anr.

Date : 5.7.2007

PRESENT

HON'BLE ACTING CHIEF JUSTICE MR. RAJESH BALIA
HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. S.N. Trivedi for the petitioner.
Mr. Tarun Joshi for the respondents.
Mr. L.R. Upadhyay, Dy. Government Advocate.

At the request of learned counsel for the parties, this writ petition along with CW No.4138/95 is being heard by us finally.

The petitioner had applied being eligible to be appointed for the post of Assistant Lecturer, Medical College in pursuance of advertisement No.5/1994-95 Annex.1. He received an intimation that though he holds qualification for appointment, but since number of candidates, who had applied for the post are large in number, only limited number of candidates in order of merit on the basis of formula devised by the Commission have been called for interview and, therefore, it is not possible for the commission to call

the petitioner for interview as he fell beyond the criteria adopted for short listing the candidates.

The petitioner had challenged that intimation, challenging the validity of short listing of the candidates for the purpose of calling for interview and consequential relief that if he succeeds, he be given appointment if otherwise found in order of merit.

By way of interim relief granted by this Court vide order dated 3.7.1995 the petitioner was called for interview and interviewed but his result was not declared. It has been brought to our notice that a Bench decision of this Court rendered in D.B. Civil Special Appeal (W) No.568/1995 – R.P.S.C. Vs. Dr. Rajesh Rohatagi & Ors. and connected group of matters decided on 1.10.1999.

In the aforesaid decision, the action of the RPSC in short listing the candidates for the purpose of calling for interview was upheld on the criteria adopted by it was also upheld and the directions issued by the

learned Single Judge was set aside.

The said judgment relates to very same question of short listing of the candidates for appointment on the advertised post of Lecturer (Assistant Professors) in the discipline of General Medicine for which the petitioner is eligible.

The Division Bench held in no uncertain terms that:-

> "We do not find that the Commission has acted arbitrarily or without any basis. The criteria laid down by the Commission does not affect the minimum qualification laid down for appointment to the post. It has only fixed up the criteria of weightage on the basis of MD qualification obtained in first attempt of in subsequent attempts and marks obtained in MBBS examination. The criteria laid down has a reasonable nexus to the object sought to be achieved, namely short listing the number of eligible candidates for the purposes of interview. For the aforesaid reasons we are of the view that the judgment

of the learned Single Judge is not in accordance with law and is hereby set aside."

In view of the aforesaid decision, it must be held that not calling the petitioner for interview as a result of short listing of candidates for the purpose of considering to appoint on the post of Lecturer (Assistant Professors) in the discipline of General Medicine was justified and, therefore, notwithstanding the petitioner was not called for interview in pursuance of interim orders made by this Court, (the result has not been declared) the petitioner is not entitled to any further relief. It must be held that since the petitioner has not been called for interview on valid and justified reasons no litigating rights accrued to the petitioner in relation to advertisement No.5/94-95 in question and, therefore, the consequential relief prayed by the petitioner also cannot be granted.

The writ petition, therefore, fails and is hereby dismissed. No order as to costs.

[MAHESH CHANDRA SHARMA],J. [RAJESH BALIA], Actg.C.J.

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